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BY ECF

Honorable Katherine Polk Failla
United States District Judge
Southern District of New York
40 Foley Square
New York, New York 10007

**Re: *United States v. Haji Najibullah*,
(S2) 14 Cr. 401 (KPF)**

Dear Judge Failla,

We write on behalf of the parties regarding next steps in the above-captioned case following the defense's notice of interlocutory appeal from the Court's November 1, 2024, Order denying Mr. Najibullah's motion for immunity from prosecution under Articles 2 and 4 of the Third Geneva Convention. *See* Dkt. Nos. 137 (Order), 138 (Notice of Appeal).

Pending the Second Circuit's resolution of Mr. Najibullah's appeal, which affects Counts 1 through 9 of the superseding indictment, the parties agree that the Court should stay the proceedings and adjourn the trial date (and the accompanying pre-trial schedule, including pending CIPA litigation) *sine die*, until the interlocutory appeal has been resolved. By consenting to this application, the Government does not waive any arguments it may make before the Second Circuit, including whether the Court's November 1, 2024, Order qualifies as a "collateral order" properly subject to an interlocutory appeal. The parties also anticipate requesting an expedited briefing schedule for the interlocutory appeal, and, accordingly, respectfully request leave to provide the Court with a status update as to the appellate proceedings on or before January 31, 2025.

The parties further agree that time under the Speedy Trial Act is automatically excluded from the date of the filing of the Notice of Appeal through the resolution of the defense's interlocutory appeal. *See* 18 U.S.C. § 3161(h)(1)(C).

We thank the Court for its consideration of this application.

Respectfully Submitted,

/s/

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Cc: Government Counsel